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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12
13 DIANE REBECCA RAMIREZ-FECHTNER
1238 Grand Avenue
Fillmore, CA 93015
14
15 Registered Nurse License No. 306955
Nurse Practitioner Certificate No. 6384
Nurse Practitioner Furnishing Certificate
16 No. 6384

Case No. 2010-192

ACCUSATION

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation
22 solely in her official capacity as the Interim Executive Officer of the Board of Registered
23 Nursing.
24 2. On or about September 30, 1979, the Board of Registered Nursing issued
25 Registered Nurse License Number 306955 to Diane Rebecca Ramirez-Fechtner ("Respondent").
26 The Registered Nurse License was in full force and effect at all times relevant to the charges
27 brought herein and will expire on July 31, 2011, unless renewed.

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3. On or about January 21, 1993, the Board of Registered Nursing issued Nurse Practitioner Certificate No. 6384 to Respondent. The Nurse Practitioner Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2011, unless renewed.

4. On or about October 1, 1993, the Board of Registered Nursing issued Nurse Practitioner Furnishing Certificate No. 6384 to Respondent. The Nurse Practitioner Furnishing Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2011, unless renewed.

JURISDICTION

5. This Accusation is brought before the Board of Registered Nursing (“Board”), under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

6. Section 2750 of the Business and Professions Code (“Code”) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

7. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

8. Section 2761 of the Code states:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

“(a) Unprofessional conduct, which includes, but is not limited to, the following:

“(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

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1 9. California Code of Regulations, title 16, section 1443, states:

2 "As used in Section 2761 of the code, 'incompetence' means the lack of
3 possession of or the failure to exercise that degree of learning, skill, care and experience
4 ordinarily possessed and exercised by a competent registered nurse as described in Section
5 1443.5."

6 10. California Code of Regulations, title 16, section 1443.5 states:

7 "A registered nurse shall be considered to be competent when he/she consistently
8 demonstrates the ability to transfer scientific knowledge from social, biological and physical
9 sciences in applying the nursing process, as follows:

10 "(1) Formulates a nursing diagnosis through observation of the client's physical
11 condition and behavior, and through interpretation of information obtained from the client and
12 others, including the health team.

13 "(2) Formulates a care plan, in collaboration with the client, which ensures that
14 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and
15 protection, and for disease prevention and restorative measures.

16 "(3) Performs skills essential to the kind of nursing action to be taken, explains
17 the health treatment to the client and family and teaches the client and family how to care for the
18 client's health needs.

19 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
20 subordinates and on the preparation and capability needed in the tasks to be delegated, and
21 effectively supervises nursing care being given by subordinates.

22 "(5) Evaluates the effectiveness of the care plan through observation of the
23 client's physical condition and behavior, signs and symptoms of illness, and reactions to
24 treatment and through communication with the client and health team members, and modifies the
25 plan as needed.

26 "(6) Acts as the client's advocate, as circumstances require, by initiating action to
27 improve health care or to change decisions or activities which are against the interests or wishes
28 of the client, and by giving the client the opportunity to make informed decisions about health

1 care before it is provided."

2 11. California Code of Regulations, title 16, section 1480(c) states:

3 . . .

4 "(c) 'Clinically competent' means that one possesses and exercises the degree of
5 learning, skill, care and experience ordinarily possessed and exercised by a member of the
6 appropriate discipline in clinical practice."

7 12. Section 118, subdivision (b), of the Code provides that the suspension,
8 expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to
9 proceed with a disciplinary action during the period within which the license may be renewed,
10 restored, reissued or reinstated.

11 13. Section 125.3 of the Code provides, in pertinent part, that the Board may
12 request the administrative law judge to direct a licensee found to have committed a violation or
13 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
14 and enforcement of the case.

15 FACTUAL SUMMARY

16 14. On February 2, 2005, Patient M.A.¹ had an initial prenatal visit with
17 Respondent during which Respondent documented patient's history and performed a physical
18 exam. Respondent performed an ultrasound and found an intrauterine pregnancy commensurate
19 with 9 weeks, 1 day gestation with fetal cardiac activity present. On this date, the following
20 significant notations were made in the prenatal chart and on Patient M.A.'s record: bleeding and
21 spotting had ceased; patient was Rh negative; RhoGAM had been administered; patient's
22 antibody screen was positive; patient's Indirect Coombs test was titer 1:1; patient tested positive
23 for GBS [Group B Streptococcus] in urine; patient had a history of asthma but was on no current
24 medications; patient had Scoliosis with surgery in Chile at age 15; and patient had a history of
25 laparoscopy performed June 2004 for tubal block and infertility. There is no documentation in
26

27 1. Patient name has been omitted for purpose of privacy. The name and contact
28 information of the patient involved in this Accusation will be disclosed upon receipt of a proper
request for discovery.

1 the record reflecting that Respondent consulted with a physician regarding a positive antibody
2 screen and an Indirect Coombs titer 1:1 during this prenatal visit.

3 15. On March 23, 2005, at approximately 16 weeks gestation, Patient M.A.
4 had a routine prenatal visit with Respondent. The record for that prenatal appointment does not
5 reflect that Respondent consulted with a physician regarding a positive antibody screen and an
6 Indirect Coombs titer 1:1 (positive test). Respondent also failed to document an assessment of
7 the treatment and the appropriateness and effectiveness of that treatment for the urinary tract
8 infection.

9 16. On April 25, 2005, at 20 weeks gestation, Patient M.A. had a routine
10 prenatal visit with Respondent. The record for that prenatal appointment does not reflect that
11 Respondent consulted with a physician regarding a positive antibody screen and an Indirect
12 Coombs titer 1:1 (positive test). Respondent also failed to order another Indirect Coombs titer.

13 17. On May 4, 2005, at approximately 22 weeks gestation, Respondent
14 diagnosed Patient M.A. with a symptomatic urinary tract infection and prescribed Macrobid 100
15 milligrams twice daily for 7 days and then a prophylactic dose of Macrobid 100 milligrams daily
16 throughout the pregnancy. Macrobid is a urinary germicide, which when used in pregnancy, has
17 a risk factor of Category B.

18 18. On June 27, 2005, at 29 weeks and 6 days gestation, Patient M.A. had a
19 prenatal appointment with Respondent. During this appointment, Respondent reviewed Patient
20 M.A.'s laboratory results for Hemoglobin, Syphilis screen, and Negative Indirect Coombs.
21 However, Respondent failed to administer or order the administration of RhoGAM to Patient
22 M.A. During that visit, a plan was devised to re-check the anti-D titer that day and every month.

23 Respondent consulted with Dr. Mann regarding Patient M.A.'s abnormal laboratory findings
24 and a decision for "no RhoGAM administration" was made. During this visit, Respondent also
25 failed to document an intrapartum plan of care for GBS infection in pregnancy nor did she
26 change the treatment.

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1 19. At no time during her prenatal care of Patient M.A. did Respondent do the
2 following: chart review of the patient's history of PRN² use of Albuterol (bronchodilator) during
3 2003 and 2004, chart asthma on the problem list and create a plan of care for this problem during
4 the pregnancy, note ongoing assessments of the status of patient's asthma condition during the
5 prenatal visits or educate patient on asthma prevention and the effects of asthma on the
6 pregnancy.

7 20. At no time during her prenatal care of Patient M.A. did Respondent
8 document any discussion with Patient M.A. regarding having a natural childbirth experience
9 with the aide of epidural anesthesia. Respondent also failed to refer Patient M.A. to the
10 anesthesia department for a consultation on this issue. Further, Respondent failed to document
11 the patient's history of spinal fusion on the problem list in the prenatal record and failed to create
12 a plan of care for this condition. Further, during her initial exam/visit with Patient M.A.,
13 Respondent failed to document the findings of the October 27, 2003 chest x-ray and the January
14 17, 2003 abdominal x-ray, in which the patient's spinal fusion was described in more detail.

15 CAUSE FOR DISCIPLINE

16 **(Unprofessional Conduct: Incompetence)**

17 21. Respondent is subject to disciplinary action under section Respondent's
18 license is subject to discipline pursuant to section 2761, subdivision (a)(1), for unprofessional
19 conduct and incompetence as defined by California Code of Regulations, title 16, sections 1443,
20 and 1443.5, in that Respondent either did not possess or failed to exercise the requisite degree of
21 learning, skill, care and experience ordinarily possessed and exercised by a competent registered
22 nurse in her care of Patient M.A. as follows:

23 a. Respondent departed from the standard of care for obstetrical patients who
24 present with symptomatic urinary tract infections of Group Beta Streptococcus.

25 b. Respondent failed to properly apply the Nursing Process through her
26 failure to interpret information obtained from others (chart review), formulate a care plan,

27 _____
28 2. *Pro re nata*. Latin for "as the situation demands" or "as needed."

1 perform skills essential to the nursing actions, explain the health treatment to the client, and
2 evaluate the effectiveness of the care plan.

3 c. Respondent departed from the Standard of Care for Rhesus Negative
4 obstetrical patients in that she failed to complete all of the pertinent events and actions regarding
5 prenatal care for Rhesus negative women.

6 d. Respondent failed to document risk factors and apply proper treatment for
7 an obstetrical patient with a history of Spinal Fusion.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 306955,
12 issued to Diane Rebecca Ramirez-Fechtner.

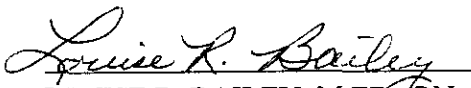
13 2. Revoking or suspending Nurse Practitioner Certificate Number 6384,
14 issued to Diane Rebecca Ramirez-Fechtner.

15 3. Revoking or suspending Nurse Practitioner Furnishing Certificate Number
16 6384, issued to Diane Rebecca Ramirez-Fechtner.

17 4. Ordering Diane Rebecca Ramirez-Fechtner to pay the Board of Registered
18 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
19 Business and Professions Code section 125.3;

20 5. Taking such other and further action as deemed necessary and proper.

21 DATED: 10/5/09

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23 
24 LOUISE R. BAILEY, M.ED, RN
25 Interim Executive Officer
26 Board of Registered Nursing
27 State of California
28 Complainant